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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

RAMON ARMIJO,

Defendant and Appellant.

B286698

(Los Angeles County
Super. Ct. No. TA132994)

APPEAL from a judgment of the Superior Court of Los Angeles County, Laura R. Walton, Judge. Affirmed.

James Koester, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and Analee J. Brodie, Deputy Attorneys General, for Plaintiff and Respondent.

Ramon Armijo appeals from the judgment entered after the trial court denied Armijo’s motion to replace his court-appointed attorney pursuant to *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*). In Armijo’s initial appeal, he argued the trial court erred in failing to conduct a hearing on his *Marsden* motions following his written requests to the court. (*People v. Armijo* (2017) 10 Cal.App.5th 1171, 1173 (*Armijo I*)). We agreed, conditionally reversed the judgment, and remanded with instructions to the trial court to hold a hearing on Armijo’s second *Marsden* motion. (*Id.* at pp. 1183-1184.) On remand, the trial court conducted a *Marsden* hearing and concluded Armijo was not entitled to replace his attorney because he did not meet his burden to show the attorney provided inadequate representation or there was an irreconcilable conflict between Armijo and his attorney. Armijo contends the trial court erred in denying his *Marsden* motion because he was embroiled in an irreconcilable conflict with his attorney. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Pretrial Proceedings*

1. *The information*

This case arises out of an April 11, 2014 incident in which Armijo allegedly stabbed a man with a “bayonet type knife.” The information charged Armijo with attempted willful, deliberate, and premeditated murder (Pen. Code, §§ 187, subd. (a), 664).¹ The information alleged Armijo personally used a deadly or dangerous weapon in the commission of the offense (§ 12022,

¹ All further statutory references are to the Penal Code.

subd. (b)(2)).² The information also alleged Armijo had suffered one prior conviction for a violent or serious felony within the meaning of the three strikes law (§§ 667, subds. (b)-(j), 1170.12) and a serious felony within the meaning of section 667, subdivision (a)(1).

Armijo pleaded not guilty and denied the special allegations.

2. *Continuances and new counsel*

Deputy Public Defender Delia Metoyer represented Armijo from September 4, 2014 through January 13, 2015, including at his preliminary hearing, arraignment, and nine pretrial conferences. Deputy Public Defender Diana Alexander represented Armijo for the first time at a pretrial conference on January 22, 2015. At that hearing, the trial court granted Alexander's request to continue the case to March 9, 2015 on the basis she had recently been assigned to represent Armijo. Armijo

² Although the parties state in their briefs Armijo was charged with use of a deadly or dangerous weapon under section 12022, subdivision (b)(2), the enhancement should have been charged under section 12022, subdivision (b)(1), applicable to "a felony or attempted felony," unless he was convicted of carjacking or attempted carjacking. (See § 12022, subd. (b)(2) [if a defendant who personally uses a deadly or dangerous weapon "has been convicted of carjacking or attempted carjacking, the additional term shall be in the state prison for one, two, or three years"].) Because this allegation was dismissed as part of the negotiated plea agreement, we need not address whether Armijo was charged under the appropriate subdivision.

sent a letter to the court after that hearing requesting a new attorney and expressing concern about the continuance.

Deputy Public Defender Francine Logan was subsequently assigned to represent Armijo, and first appeared on his behalf at the March 9, 2015 pretrial hearing. Logan moved to continue the case to April 9, 2015, explaining she had just been assigned to the case and discovery was “voluminous.” The trial court noted Armijo had been “extremely patient” with the continuances of his case, but granted the continuance because Logan “need[ed] additional time . . . to prepare for [the] trial.” On April 9, 2015, at the request of another deputy public defender standing in for Logan, the trial court continued the hearing to April 15, 2015. On April 15, 2015 at the request of a different deputy public defender standing in for Logan, the court granted a further continuance to April 21, 2015.

3. *Armijo’s second letter to the court*

In a letter dated April 16, 2015, Armijo expressed concerns over Logan’s representation. He voiced frustration over Logan’s absences at the April 9 and April 15 pretrial conferences and noted Logan had failed to visit him at the county jail or accept his collect phone calls. Armijo also complained he had been represented by three different public defenders and raised the resulting “pattern of unwanted continuances.” He concluded, “It is rather obvious that the public defender’s [office], for whatever reasons, has not been able to adequately represent me, and for these reasons I am requesting that you assign my case to a state-

appointed attorney.” The trial court received Armijo’s letter on April 24, 2015.³

4. *The denial of Armijo’s section 995 motion and the filing of an amended information*

On April 21, 2015 Logan represented Armijo at a pretrial conference, at which the trial court set a hearing for May 7, 2015 on Armijo’s motion to dismiss the charges pursuant to section 995. Because Armijo did not appear for the May 7 hearing, the trial court continued the hearing to May 12. On May 12 Logan argued Armijo’s motion to dismiss, which the trial court denied.

On June 3, 2015 the People filed an amended information to add the special allegation Armijo inflicted great bodily injury in the commission of the offense. (§ 12022.7, subd. (a).) The amended information was otherwise identical to the original information.

Armijo pleaded not guilty and denied the special allegations.

B. *The Negotiated Plea and Sentence*

Logan represented Armijo at the June 23, 2015 hearing, at which Armijo pleaded no contest to attempted murder and admitted the great bodily injury and prior strike allegations. In accordance with the negotiated plea agreement, the trial court sentenced Armijo to an aggregate term of 13 years, consisting of the lower term for attempted murder of five years, doubled under the three strikes law, plus three years for the great bodily injury

³ According to the trial court, the letter was file-stamped and placed in the file, but was never shown to the judge.

allegation. The trial court dismissed the remaining special allegations.

C. *Armijo's First Appeal*

Armijo filed a timely notice of appeal in which he stated he intended to challenge the validity of the plea. The trial court granted Armijo's request for a certificate of probable cause.⁴ (*Armijo I, supra*, 10 Cal.App.5th at p. 1178.) In *Armijo I*, we concluded the trial court erred in failing to hold a *Marsden* hearing following Armijo's second letter requesting replacement of Logan, but the *Marsden* request in his first letter as to Metoyer was "rendered moot" when Armijo "got what he wanted in the first letter—a new lawyer." (*Id.* at p. 1180.) We explained the trial court denied Armijo the "opportunity to explain and if possible to document the basis of his contention [beyond the] bare complaint[s]' that counsel is not providing adequate assistance." (*Id.* at pp. 1179-1180.)

We remanded for the trial court to hold a *Marsden* hearing. (*Armijo I, supra*, 10 Cal.App.5th at p. 1184.) We instructed the trial court that if it granted Armijo's *Marsden* motion, the court should appoint new counsel to assist Armijo in filing a motion to

⁴ In his request for a certificate of probable cause, Armijo argued the trial court denied him an opportunity to explain the reasons for his request for new counsel, citing to *Marsden, supra*, 2 Cal.3d 118. He referred to his two letters to the court, and asserted multiple deficiencies in Logan's representation, including that she failed to discuss the motion to dismiss with him, improperly induced him to accept the offer of a negotiated plea, and "failed to clearly and thoroughly explain [the] guilty plea."

withdraw his plea or making any other motions the new attorney deemed appropriate. (*Id.* at pp. 1183-1184.) We further instructed the trial court to reinstate the judgment if: (1) the court denied Armijo’s *Marsden* motion; or (2) it granted Armijo’s motion, but substitute counsel declined to file a motion to withdraw the plea or other appropriate motion, or the court denied any such motion. (*Id.* at p. 1184.)

D. *The Marsden Hearing on Remand*

On August 14, 2017 the trial court held a *Marsden* hearing, at which it provided Armijo an opportunity to discuss his concerns with Logan’s representation during the pendency of his case.⁵ Logan and Armijo were present for the hearing.

1. *Armijo’s concerns*

Armijo argued Logan provided him “inadequate representation and ineffective assistance of counsel.” He asserted his attorney “agreed to allow” the information to be amended to add the special allegation he inflicted great bodily injury in the commission of the offense. Armijo also raised that Logan missed a court date and requested several continuances of court dates.

⁵ Armijo also read into the record two letters he sent to Logan on July 2 and July 8, 2015, asking for her assistance in withdrawing his plea and explaining the grounds for the proposed motion. The trial court correctly noted Armijo’s letters were not relevant to its consideration of Armijo’s *Marsden* motion, which concerned only Logan’s representation during the pendency of the case.

Armijo expressed concern Logan sought several continuances of the trial date to enhance a video of the incident, which Armijo stated the prosecutor had conceded was “inconclusive.” Armijo claimed he told Logan he did not want the video used at trial for fear it would help the prosecution, but Logan nevertheless hired an expert to enhance it.

Armijo stated that on June 23, 2015 Logan informed him the enhanced video was “unfavorable” to his defense. Armijo “was in shock” and “devastated and unable to think clearly.” Logan “repeatedly emphasized the possibility [Armijo] was facing life in prison,” and recommended he accept the prosecution’s offer of a negotiated plea under which he would be sentenced to 13 years in prison. According to Armijo, Logan never suggested a continuance so he could have more time “to make an informed decision.”

Armijo stated Logan never offered to show the video to him. He added that after the case had been pending for 14 months, he was “willing to take anything.” At the time Logan explained the prosecution’s offer, he “wasn’t thinking clearly.” Rather, “all that was going on in [his] mind was 13 years in prison.” Because of Logan’s revelation the video was “now damaging evidence” and Armijo’s surprise that at the age of 54 he would go to prison for 13 years, he entered the courtroom “in an incoherent daze as the judge asked [him] if [he] understood the rights [he] was giving up” when entering his plea. Armijo claimed the “primary factor[s] for accepting” the plea agreement were the damaging video, Logan’s cooperation in the prosecution charging Armijo with the three-year great bodily injury enhancement, and Logan’s “improper persuasion and inducement” for him to plead no contest.

Armijo also argued Logan failed to investigate whether she could have his prior conviction of assault with a deadly weapon, in violation of section 245, subdivision (a)(1), reduced to a misdemeanor, which would have avoided the doubling of his sentence under the three strikes law. He also stated he would not have agreed to pay the restitution amount of \$4,900 that was part of the plea agreement if his attorney had “clearly and thoroughly explained” it to him, because he lacked the ability to pay that amount.⁶ The trial court read into the record excerpts from the transcript of the plea agreement, in which Armijo stated he understood the court would impose a restitution fine, and he may be required to pay restitution to the victim.

2. *Logan’s response*

Logan noted Armijo’s case had been pending for approximately one year before she was appointed as his counsel (starting in March 2015), and by that time several attorneys had represented him. She understood Armijo was upset because of the delay, and she began working on his case. Logan explained she had missed two court appearances because she had sustained a concussion in a car accident. She argued the motion to dismiss under section 995, which the trial court denied. Based on Armijo’s statements to her that he and the alleged victim were both drunk during the incident, Logan hired an expert to explore a willful intoxication defense to the attempted first degree

⁶ At the hearing neither the trial court nor Logan had information, nor do we, whether the \$4,900 was an award of victim restitution or a restitution fine imposed under section 1202.4, subdivision (b)(1).

murder charge. But the expert was not able to provide a favorable opinion, so Logan decided not to call him as a witness at trial.

Logan sent an investigator to take photographs of the scene of the incident, then reviewed the photographs with Armijo and discussed the incident with him “at length.” Armijo told Logan the video would show Armijo “was not the one who started the altercation,” and “he was actually the victim in this case.” Logan believed based on these statements Armijo “would have had a wonderful self-defense” case to present at trial. In response, Logan had her investigator re-interview the witnesses, but they did not change their statements about the incident. In addition, after Logan had an expert enhance the video, Logan concluded based on her review of the enhanced video that it did not support a self-defense theory, and instead showed Armijo was “waiting” for, “go[ing] after,” and “follow[ing] the victim.” Logan recognized she did not have to turn over the enhanced video to the prosecution. Armijo did not ask to see the video, but Logan described its contents to him.

Logan explained she played no role in the People filing an amended information against Armijo, and stated she could not “think of anything more [she] could have done” on Armijo’s case.

Logan met with Armijo on June 15, 17, and 23, 2015. Logan represented she told Armijo on June 15 the enhanced video was unfavorable. At that time Armijo asked her to negotiate a plea offer for a determinate sentence. Logan spoke with the prosecutor about an offer that day. She met with Armijo again on June 17, but the prosecutor did not yet have approval to make an offer. On June 23 the People offered a negotiated plea with a 13-year prison sentence.

On June 23 Logan communicated the offer to Armijo, explained she was ready for trial if he did not want to accept the offer, and advised him “what the offer was and what would happen at the trial.” She explained she was not going to use the video at trial. Armijo did not tell Logan he needed more time to think about the offer; if he had, Logan would have asked the prosecutor to keep the offer open longer. Instead, Armijo “was determined to take it on that day.” Armijo pleaded no contest on June 23, 2015 in accordance with the agreement.

3. *Armijo’s response to Logan*

Armijo denied he ever asked Logan for a determinate offer. However, he confirmed he never requested that Logan show him the enhanced video.

4. *The trial court’s denial of Armijo’s Marsden motion*

The trial court denied Armijo’s *Marsden* motion, finding after Logan’s appointment there was “an initial delay” of two brief continuances because Logan was recovering from a concussion, but in the three months since she was appointed as Armijo’s counsel, Logan “fully investigated the case” by consulting with an expert on intoxication, having her investigator take photographs of the scene, discussing the photographs with Armijo, and having an expert enhance the video of the incident to support Armijo’s claim he acted in self-defense. The court added Armijo “gave his version of the events,” and Logan “fully explored any potential defenses” based on those events. The court also found Logan discussed the enhanced video with Armijo and explained she was not going to use it at trial because it was not useful for his defense.

Further, the court found Logan's statement Armijo asked for a determinate offer credible in that the trial was continued from June 15 to June 17, and then to June 23, which is when the People made their offer of a negotiated plea. With respect to Armijo's argument he "felt rushed and ultimately made a bad and wrong decision," the trial court found significant that Armijo did not request additional time to consider the plea offer, and that Logan stated she would have asked for more time if Armijo had requested it.

The trial court concluded Armijo had "buyer[']s remorse" and "regret[ted]" accepting the plea offer, but he had not shown his acceptance of the plea was based on "improper inducement" by his attorney or "inadequate representation." The court concluded Armijo had not met his burden to demonstrate inadequate representation or an irreconcilable conflict with Logan during the period she represented him. The trial court reinstated the judgment and sentence.

Armijo timely appealed.

DISCUSSION

A. *Governing Law on Marsden Motions*

"Criminal defendants are entitled to the assistance of counsel in their defense. [Citation.] A court must appoint counsel to represent an indigent defendant. [Citation.] A defendant also has a right to seek substitute counsel under *Marsden* if the defendant can show that continued representation by present counsel would substantially impair or deny his or her right to effective assistance of counsel." (*People v. Knight* (2015) 239 Cal.App.4th 1, 5-6; accord, *Marsden*, *supra*, 2 Cal.3d at

p. 123.) “[O]nce the defendant clearly indicates to the trial court a request for the discharge and replacement of appointed counsel, the court must hold a hearing to allow the defendant to explain the basis for the request.” (*Armijo I, supra*, 10 Cal.App.5th at p. 1179.) The trial court must provide the defendant “the opportunity to state the specific reasons for his [or her] “conflict” with appointed counsel.” (*People v. Sanchez* (2011) 53 Cal.4th 80, 87.)

However, as the Supreme Court has explained, “a defendant has no absolute right to more than one appointed attorney,’ and . . . a trial court is not bound to accede to a request for substitute counsel unless the defendant makes a ““sufficient showing . . . that the right to the assistance of counsel would be substantially impaired”” if the original attorney continued to represent the defendant.” (*People v. Sanchez, supra*, 53 Cal.4th at p. 87, quoting *Marsden, supra*, 2 Cal.3d at p. 123.) ““Substantial impairment of the right to counsel can occur when the appointed counsel is providing inadequate representation or when “the defendant and the attorney have become embroiled in such an irreconcilable conflict that ineffective representation is likely to result [citation].”” (*People v. Myles* (2012) 53 Cal.4th 1181, 1207 (*Myles*); accord, *People v. Zendejas* (2016) 247 Cal.App.4th 1098, 1108.)

““[T]actical disagreements between the defendant and his [or her] attorney do not by themselves constitute an ‘irreconcilable conflict.’”” (*Myles, supra*, 53 Cal.4th at p. 1207 [no irreconcilable conflict where defendant claimed attorney failed to interview witnesses or investigate issues raised by defendant, but attorney explained he had discussed the investigation with defendant many times, and the attorney had pursued everything

he could]; *People v. Dickey* (2005) 35 Cal.4th 884, 922 [no conflict where defendant asserted counsel should have presented defendant's theory to the jury, but there was no evidence supporting that theory]; *People v. Cole* (2004) 33 Cal.4th 1158, 1192 [disagreements about "investigation, trial preparation, and trial strategy [are] essentially tactical disagreements, which do not by themselves constitute an 'irreconcilable conflict.'"]; *People v. Welch* (1999) 20 Cal.4th 701, 728 ["[a] defendant does not have the right to present a defense of his own choosing, but merely the right to an adequate and competent defense"].)

Nor does an irreconcilable conflict exist based only on a defendant's assertion of a lack of trust in his or her attorney. (*Myles, supra*, 53 Cal.4th at p. 1207 ["If a defendant's claimed lack of trust in, or inability to get along with, an appointed attorney were sufficient to compel appointment of substitute counsel, defendants effectively would have a veto power over any appointment, and by a process of elimination could obtain appointment of their preferred attorneys, which is certainly not the law."]; *People v. Clark* (2011) 52 Cal.4th 856, 913-914 ["trial courts are [not] required to grant substitution of counsel to defendants whose paranoia concerning defense counsel has impaired communication"]; *People v. Abilez* (2007) 41 Cal.4th 472, 489 [defendant's allegations he could not trust his attorney were insufficient where attorney "adequately explained the circumstances" that caused defendant to distrust him].)

"Furthermore, '[a] trial court is not required to conclude that an *irreconcilable* conflict exists if the defendant has not made a sustained good faith effort to work out any disagreements with counsel.'" (*Myles, supra*, 53 Cal.4th at p. 1207; see *People v. Smith* (2003) 30 Cal.4th 581, 606 ["[d]efendant did not show that

defense counsel did anything to cause any breakdown in their relationship”]; *People v. Barnett* (1998) 17 Cal.4th 1044, 1086 [no abuse of discretion in denying defendant’s *Marsden* motion where defendant sought substitute counsel only 13 days after counsel’s appointment].)

The denial of a *Marsden* motion is reviewed on appeal for an abuse of discretion. (*People v. Rices* (2017) 4 Cal.5th 49, 69; *Myles, supra*, 53 Cal.4th at p. 1207; *People v. Loya* (2016) 1 Cal.App.5th 932, 944.) “The court does not abuse its discretion in denying a *Marsden* motion “unless the defendant has shown that a failure to replace counsel would substantially impair the defendant’s right to assistance of counsel.”” (*Myles*, at p. 1207; accord, *People v. Streeter* (2012) 54 Cal.4th 205, 230; *Loya*, at p. 944.)

B. *The Trial Court Did Not Abuse Its Discretion in Denying Armijo’s Marsden Motion*

Armijo concedes Logan provided adequate representation,⁷ but contends the trial court erred in denying his *Marsden* motion because his “relationship with his public defenders had so deteriorated prior to his entering into the plea agreement” that he was unable to work cooperatively with his attorney. Armijo asserts his irreconcilable conflict with Logan stemmed from the

⁷ Armijo states in a footnote “it [was] not altogether clear” if Logan or any of Armijo’s prior attorneys verified that his prior conviction, which he admitted as part of the negotiated plea, was properly characterized as a strike offense. However, Armijo fails to present any evidence his prior conviction did not constitute a strike under the three strikes law, or that his attorneys did not investigate the nature of the offense.

numerous delays during the 14 months leading to his plea; Logan's failure to "meaningfully discuss his case" with him; her failure to appear for two court appearances; and her failure to visit him at the jail or accept his collect phone calls.

The trial court did not abuse its discretion in finding Logan and Armijo were not embroiled in an irreconcilable conflict. Logan spoke "at length" to Armijo about the facts surrounding the incident and reviewed photographs of the scene with him. In response to Armijo's assertion he acted in self-defense, Logan hired an expert to enhance a video of the incident and had her investigator re-interview the witnesses. When the video turned out to be unfavorable, Logan described its contents to Armijo. According to Logan, at their June 15, 2015 meeting, based on the revelation the video proved to be unfavorable, Armijo asked Logan to negotiate a plea for a determinate sentence. Logan responded to Armijo's request the same day by requesting the prosecutor make an offer of a determinate sentence. Logan met with Armijo two days later, but the prosecutor had not yet made an offer.

On June 23, 2015, after the prosecutor offered a negotiated plea with a 13-year prison sentence, Logan discussed with Armijo the details of the offer, that she was ready for trial, and what would happen at trial if he did not accept the offer. According to Logan, she explained to Armijo she would not use the enhanced video at trial. In contrast to Armijo's description of being in an "incoherent daze," Logan described him as being "determined to take [the offer] on that day."

With respect to Armijo's contention the numerous continuances in his case caused his relationship to deteriorate, as the trial court found, the delays occurred before Logan

commenced her representation, and she acted diligently in the three months in which she represented him. The trial court granted the first continuance to enable Logan to review the “voluminous” discovery; and Logan’s failures to appear at the April 9 and April 15 court dates were justified by her medical condition after a car accident. During her brief representation, Logan met with Armijo multiple times, hired two experts, had her investigator take photographs and re-interview witnesses, and prepared for trial.

Armijo’s contention Logan did not meet with him in jail or return his phone calls does not amount to an irreconcilable conflict where there is evidence Logan communicated meaningfully with him and otherwise provided adequate representation. (*Myles, supra*, 53 Cal.4th at p. 1208 [“As for defendant’s complaint that counsel rarely visited him, such an allegation does not justify substitution of counsel.”]; *People v. Hart* (1999) 20 Cal.4th 546, 604 [“trial court reasonably concluded that trial counsel was prepared for trial and therefore did not need to visit defendant on a regular basis”]; *People v. Crandell* (1988) 46 Cal.3d 833, 859 [lack of communication during a period of several weeks after three consultations did not establish inadequate representation], disapproved on another ground in *People v. Crayton* (2002) 28 Cal.4th 346, 364-365.)

Although Armijo disputes whether he and Logan meaningfully discussed the incident or the plea, or that Logan obtained the prosecutor’s offer in response to Armijo’s request for an offer of a determinate sentence once he learned about the unfavorable video, “[t]o the extent there was a credibility question between defendant and counsel at the hearing, the court was “entitled to accept counsel’s explanation.”” (*People v. Rices*,

supra, 4 Cal.5th at p. 69; accord, *Myles*, *supra*, 53 Cal.4th at p. 1206 [trial court entitled to credit attorney’s representations he had discussed case with defendant “many times” and had pursued “everything he could”].) Further, Armijo had the opportunity to relate specific examples of his grievances against Logan, the trial court carefully inquired into his concerns, and Logan provided point-by-point responses to Armijo’s concerns.

In his reply brief Armijo relies on *Daniels v. Woodford* (9th Cir. 2005) 428 F.3d 1181 to support his contention his lack of trust in Logan substantially impaired his right to counsel. *Daniels* is distinguishable because the record there was rife with repeated instances in which many of the seven attorneys who represented defendant Jackson Daniels in a capital case betrayed his trust. (*Id.* at pp. 1187-1188.) These circumstances included the refusal by the public defender’s office to recognize a “clear” conflict created by the office’s representation of Daniels in a prior case in which a deputy public defender negotiated a plea agreement at the same time he interviewed with the district attorney’s office, and the failure of a second deputy public defender to advise the court the negotiated sentence included the option to seek treatment, rather than immediate incarceration. (*Id.* at p. 1197.) Further, in the case at issue, Daniels’s pro bono attorney was removed because the prosecutor intended to call him as a witness, despite Daniels’s agreement to stipulate to the underlying facts; and when the public defender’s office declared a conflict nine months after assuming representation, the trial court appointed a former prosecutor with no criminal defense experience to represent Daniels with only three months to prepare for trial. (*Id.* at p. 1197.) The court concluded that by the time of trial, the defendant’s “lack of trust and confidence in

his defense counsel's motives resulted in a total lack of communication," constructively denying him effective assistance of counsel. (*Id.* at pp. 1191, 1197.)

In light of the record of meaningful communication between Logan and Armijo and Logan's diligent representation leading up to the negotiated plea agreement, the trial court did not abuse its discretion in denying Armijo's *Marsden* motion. (*People v. Rices, supra*, 4 Cal.5th at p. 69; *Myles, supra*, 53 Cal.4th at p. 1207.)

DISPOSITION

The judgment of conviction is affirmed.

FEUER, J.

WE CONCUR:

ZELON, Acting P. J.

SEGAL, J.